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## **INTRODUCTION**

In accordance with the City Auditor's 1993-94 Audit Workplan, we have audited the San Jose Police Department's Operations Support Services Division. We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

This is our second report on the San Jose Police Department's Operations Support Services Division. The first report was the informational report we issued on November 1, 1993, concerning (1) the impact of recently passed legislation on bench warrant arrests, (2) higher San Jose Police Department fees for photocopying police reports, and (3) Santa Clara County charging booking fees to bond agents.

The City Auditor's Office thanks those individuals in the San Jose Police Department who gave their time, information, insight, and cooperation. Specifically, we would like to thank the individuals assigned to the Records and Identification Unit, the Research and Development Unit, and the Staff Inspections Unit for their outstanding responsiveness to our many requests for information.

## **SCOPE AND METHODOLOGY**

The San Jose Police Department (SJPd) Bureau of Technical Services has two divisions reporting to it. These divisions are the Operations Support Services Division (OSSD) and the Communications Division. The City Auditor's Office will issue a separate report on the Communications Center, which is part of the Communications Division. This report is on the OSSD.

Our audit objectives were to determine the benefits to the SJPd of

- Direct citation and release of individuals arrested on misdemeanor warrants and/or on-view charges;
- Charging booking fees to bond agents; and
- Charging higher fees for photocopies of police reports.

Our audit included interviewing various staff members in the Fiscal Unit, Research and Development Unit, Staff Inspections Unit, and the OSSD of the SJPd. We also interviewed staff in the Santa Clara County (County) Department of Finance and Department of Corrections. We reviewed the applicable sections of authoritative literature such as the California Penal Code, the California Government Code, the California Vehicle Code, the California Health and Safety Code, and the San Jose Municipal Code.

We also reviewed written procedures and various memorandums addressing the areas of warrants, bookings and booking fees, bond agents, citation and release policies, and fees charged for photocopying police reports.

Given the magnitude of the booking fee issue, we also reviewed the spreadsheets that the County has annually submitted to the city of San Jose (City)

that support the County's calculation of its booking fees. We have also reviewed and assessed the impact of new California legislation that was signed into law on October 6, 1993, which will have a fiscal impact on the City. In addition, we performed an analysis of arrests that occurred during a certain time period in order to quantify what the City would save in booking fees if it adopted certain policies and procedures. Finally, we reviewed issued warrants and bond agent cases for a certain time period in order to assess the level of activity the SJPd has in these areas to estimate potential savings if new policies and procedures were adopted.

To complete our review of the booking fee process in a timely manner, we did only limited testing to determine the accuracy and reliability of information obtained from the County Criminal Justice Information Control (CJIC) system. Such testing included verifying, for a specified period, booking sheets to the CJIC printout of the bookings for which the City is being billed and assessing the SJPd's procedures for reviewing the County's quarterly billings. While we did not review the general and specific application controls in the CJIC system, our limited testing indicated that the information retrieved from the CJIC system is generally valid and reliable.

Finally, we conducted a survey of other Santa Clara County cities on citation and release procedures for on-view charges and arrest and/or bench warrants.

## **BACKGROUND**

Within the San Jose Police Department (SJPd) is the Bureau of Technical Services (BTS). The BTS is made up of two divisions: the Communications Division and the Operations Support Services Division (OSSD). This audit focused on the OSSD, as discussed in the Scope and Methodology section of the report.

The SJPd has the following department mission: *"To prevent crime and disorder; to preserve peace, community safety and well-being; to protect life and property and individual freedom for personal safety and well-being through the enforcement of State laws and City ordinances."* The BTS has the following program purpose and description that is applicable to OSSD:

*Records are maintained to serve the public and law enforcement sources with information pertaining to persons, stolen vehicles, emergency business directories, stolen properties, gun registrations and other areas. Required records maintained outside the department are retrieved through automated and manual systems. Information is processed and made available on a timely basis to aid the department in identifying, apprehending and prosecuting suspects and for the return of lost or stolen property. Persons are arrested and court dispositions are handled in conjunction with processing warrants. Citizens requiring fingerprints are served and a fingerprinting activity, including an automated system, is maintained to assist law enforcement personnel in the identification and apprehension of suspects.*

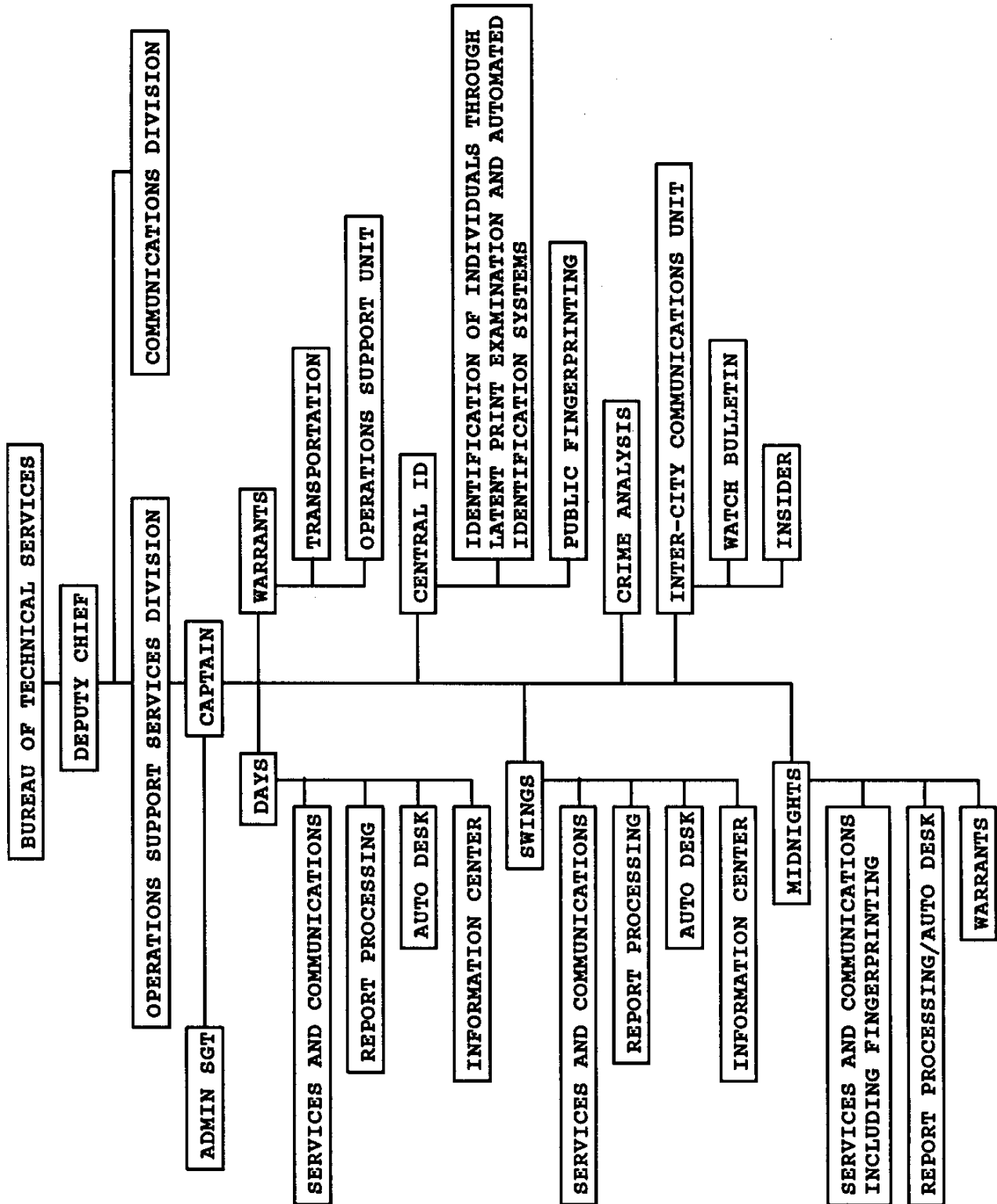
The OSSD is staffed with civilian and sworn personnel who perform numerous support functions for the SJPd. The staff currently works on a six-month rotation basis. This means that every six months, personnel bid to rotate to a new area. Bidding is based upon seniority.



The OSSD has the following units reporting to it:

- Operations Support Unit
- Information Coordination Unit
- Crime Analysis Unit
- Warrants Unit
- Central Identification Unit
- Information Center (On July 19, 1992, the Information Center was transferred from the Bureau of Field Operations to OSSD.)
- Records and Identification Unit

ORGANIZATION CHART



### **Operations Support Unit (OSU)<sup>1</sup>**

The OSU is responsible for providing *"case screening and enrichment to identify suspected offenders."* The OSU's primary functions are to complete "Case Enrichments" for the Burglary and Robbery Investigative Units, ensure the quality control and entry of all Field Interview cards, and assist other officers and agencies in locating or identifying subjects and/or property related to a crime.

### **Information Coordination Unit (ICU)**

The ICU is responsible for providing *"intra- and inter-department communications including multi-county information."* The ICU prepares the Watch Bulletin, which is a short, one-page advisory sheet regarding wanted people or crime patterns that the officers can use in their cars while on patrol. The Watch Bulletin is provided to the SJPD and other law enforcement agencies daily Monday to Friday. In addition, the ICU also produces The Insider, which is a weekly news bulletin of general department information, chaplain column, open assignments, and training information. The ICU also produces an in-house telephone book and other special bulletins.

### **Crime Analysis Unit (CAU)**

The CAU's responsibility is to *"Identify crime patterns and provide suspect linkage to offenses."* The CAU develops information such as calls per officer, types of cars stolen, activity by address, and activity by person; maintains an in-house property system, which is used mainly to generate crime statistics; and

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<sup>1</sup> As of September 12, 1993, the functions performed by OSU were dispersed to Report Processing, Crime Analysis, and Services and Communications, which are located in the Records and Identification Unit.

generates crime statistics for the SJPDP Master Report. In addition, CAU prepares crime pattern analyses and profiles and responds to requests by beat officers and detectives. Furthermore, the CAU uses SJPDP incident and crime reports to identify particular crimes in certain areas, generally by beat, and generates the District Deployment Guide. This guide provides crime information by area and is used at shift change to familiarize the officers with their new areas. Finally, the CAU conducts research and performs special projects, including community policing reports.

### **Warrants Unit (WU)**

The WU's responsibility is to "*Process and serve warrants and administer prisoner transportation.*" The WU must confirm all warrants to other agencies in ten minutes or less, as mandated and tracked by the California Department of Justice. In addition, the WU must have the original warrant on file and be staffed 24 hours a day. The WU's functions include (1) sending, receiving, and responding to teletypes regarding warrants; (2) serving, collecting bail on, and purging warrants; (3) tracking timely notification of persons with outstanding warrants; and (4) validating and reconciling warrant records with the National Crime Information Control System and the California Department of Justice. In addition, the WU files, notifies citizens of, and enters data on new warrants for municipal and traffic court cases. The WU also responds to telephone and walk-in queries regarding warrants and citations. Furthermore, the WU interfaces with the district attorneys to expedite trials, assign court dates as applicable, and coordinate transportation for SJPDP prisoners. Finally, the WU receives and serves subpoenas, charges bail bondsmen applicable fees when a person does not appear in court, processes and files restraining orders, and monitors felony affidavits.

## **Central Identification Unit (CIU)**

The CIU's mission is the following:

*The identification, classification, evaluation, comparison of latent fingerprints and palm prints, rolled finger and palm prints. Give courtroom testimony, utilize and maintain data base of automated fingerprint systems and process fingerprint cards for input into data base and manual filing of cards.*

*This work [is] performed for all municipalities in the county and for the county as agreed to by the local CAL-ID Joint Powers Agreement and required by state CAL-ID policy manual.*

*Performs some searches/identifications for other state and federal agencies.*

The CIU operates and maintains the automated fingerprint computer, maintains the fingerprint card file of local arrestees, and establishes the true identity of persons by fingerprint comparisons. In addition, the CIU receives latent fingerprints for comparison of one individual's prints to a particular crime or the prints from a crime scene for a general search. The CIU's duties include: determining the suspect, making positive identifications of crime scene latent fingerprint evidence, testifying in court, and filing or storing latent crime scene evidence. Finally, the CIU monitors the CAL-ID<sup>2</sup> contract, identifies persons and matches persons to warrants, and identifies arrestees who give an incorrect name. In 1991, the CIU identified 3,168 of 3,500 bookings where the arrestee gave an incorrect name.

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<sup>2</sup> In January 1986, a California senate bill, which became law, provided the funding and implementation of an automated fingerprint system known as the California Identification System (CAL-ID) which allows local law enforcement agencies direct access to the state's fingerprint files through the use of local remote access network equipment. The CAL-ID contract is an agreement between the city of San Jose and county of Santa Clara and other cities located within the County to establish the local CAL-ID System. The city serves as the system's fiscal and administrative agent and operates the system in the local area.

### **Information Center (IC)**

*The purpose of the Information Center is to provide citizens with ready access to Police Department services through telephone and walk in facility, and to provide a unit in the department which can relieve field units of those types of reports which do not require the on scene presence of a police officer. Additionally, the Information Center will provide internal building security and control access and movement of the public to the rest of the building.*

In addition, the IC takes City Hall phone calls after hours, provides translation services, takes walk-in police reports, and provides copies of the Public Information/Arrest Log. Furthermore, the IC makes arrests when suspects are identified while they are obtaining service at the SJPD's building. Finally, the IC provides assistance to stranded persons through the United Way of Santa Clara County Emergency Assistance Network.

### **Records And Identification Unit (RIU)**

The RIU's responsibility is to "*Maintain records to serve public law enforcement sources*" and to "*Enter and retrieve information from numerous automated systems for law enforcement purposes.*" The RIU consists of four sections: Services and Communications, Report Processing, Vehicle Records, and Fingerprints.

#### **Services And Communications Section (SCS)**

The SCS copies and releases reports to officers, citizens, law enforcement agencies, and the public and responds to mail and teletype requests for records and insurance agency letters regarding "active interest" in cases. In addition, the SCS processes and maintains microfiche records, files of police reports, and photo files. The SCS also responds to photo requests, provides compliance with criminal and civil records subpoenas, collects monies for report copies and subpoena responses,

and validates gun entries and securities entries. Further, the SCS assists officers in obtaining criminal history information and responds to report requests, block parent applications, ride-a-long program requests, background checks, visa clearances, and immigration letters. Furthermore, the SCS scans, reviews, and/or enters data from police reports for property or pawn shop items, gun dealer's record of sale reports, and Voluntary Gun Registration cards. Finally, the SCS seals juvenile records, purges certain marijuana arrest records, and performs court-ordered purges and sealing of police records.

*Report Processing Section (RPS)*

The RPS is responsible for picking up, processing, and distributing police reports. Police reports are taken in the field, over the phone, over the counter (walk-ins), and through dictation equipment. In addition, when officers call in supplemental reports to dictation equipment, the RPS transcribes the tape into a hard copy report and matches the supplemental information to the original report. The RPS also enters, audits, and clears report data in the Records Index System. The RPS also provides the quality control for SJPDP reports.

Another RPS project is to provide information to the city of San Jose (City) Traffic Abatement Program at the request of the Department of Streets and Parks.

### Vehicle Records Section (VRS)

The VRS does the following with reports about vehicles, boats, airplanes, and license plates that are stolen, recovered, repossessed, impounded, abandoned, or towed from private property:

- Sends written notification to the registered owner, legal owner, reporting party, and insurance agency as applicable;
- Notifies other law enforcement agencies via teletype;
- Provides vehicle releases to citizens;
- Collects fees and determines ownership or other applicable criteria for the release;
- Performs validation listing for the data entered into computer systems monitored by the California Department of Justice;
- Performs data entry of automobile theft reports and license plates;
- Enters missing person vehicles and felony vehicles;
- Enters data related to construction equipment; and
- Generates the billings for vehicles maintained at the Terraine Warehouse and maintains related inventory records.

The VRS attempts to process vehicle reports as soon as possible in order to avoid citizens filing stolen vehicle reports when their cars have actually been towed. The VRS also mails certain types of notifications within 48 hours of an incident occurring. In addition, the VRS responds to teletype messages within ten minutes of



the inquiry and sends a *locate*<sup>3</sup> when the SJPD recovers a vehicle for an outside agency. Furthermore, the VRS performs quality control checks of stolen vehicles as soon as possible after recovery in order to minimize charges to the SJPD and to citizens.

#### *Fingerprint Section (FS)*

The FS takes and sends to the California Department of Justice, as applicable, fingerprints of applicants for general public licenses, City positions, and visa clearances, as well as persons associated with citation bookings, warrant bookings, sexual offender registrations, narcotics offender registrations, arson offender registrations, juvenile suspects, and criminal citations. In addition, the FS generates billings for the California Department of Justice; fingerprints and collects fees for licenses, permits, and fingerprints; and maintains an arrest disposition register to develop California Department of Justice statistics. The FS also processes warrants bookings into the County Criminal Justice Information Control system and enters suspended license data and items like tattoos and aliases into the photo database. Furthermore, the FS seals records and reports for cases determined to be factually innocent. Finally, the FS does informal bookings for criminal, warrant, and citation activities, and books "walk-overs"<sup>4</sup> from the WU.

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<sup>3</sup> A *locate* has the condition of the car, arrests made, license plates, storage or location, and other details. This is mandated by the California Department of Justice and the FBI.

<sup>4</sup> Walk-overs are individuals who have signed up for a court date in the WU.

## **Major Accomplishments**

In Appendix I, the SJPD informs us of its major accomplishments in the OSSD of the BTS. According to the Chief of Police,

- In the reorganization of the OSSD, command of the IC was assumed. This change resulted in a reduction in the number of sergeants needed, thereby freeing them for assignments in either the patrol or investigative units;
- Several methods are being implemented to impact backlogs and the personnel shortage problem:
  - Cross-training of all OSSD personnel
  - Cooperative scheduling
  - Realigning of duties by shift and areas
  - Setting realistic backlog targets and prioritizing responsibilities
  - Discontinuing passé procedures
  - Streamlining procedures in direct proportion to available personnel
  - Using new crime and accident forms
  - Revising routing procedures of specific crime reports
- In order to reduce hold time for citizens calling the IC, OSSD installed an additional telephone sequencer and a call management system to provide better service. The telephone sequencer chronicles incoming calls as well as providing statistical information for management while the call management system directs the caller in English, Spanish, or Vietnamese to the desired unit quicker;
- The OSSD also installed a pneumatic tube system from the WU to the Police Administration Building parking lot. This alleviates the need for an officer to leave his or her car to obtain the original warrant of arrest; and

- The VRU will get a personal computer to record whether towed vehicles are stored, impounded, or abandoned. Such records should allow the City to realize increased revenues from towing companies and state and county abatement programs as well as provide the SJPd's investigative units with valuable statistical data.

A full text of the SJPd's memorandum of program accomplishments is shown as Appendix I to this report.

## **FINDING I**

### **UPDATING THE SAN JOSE POLICE DEPARTMENT'S CITATION AND RELEASE PROCEDURES AND EXPANDING THE PROCESSING CENTER COULD SAVE THE CITY MORE THAN \$2 MILLION ANNUALLY IN BOOKING FEES**

The California Penal Code allows police departments to cite and release persons under certain circumstances for misdemeanor charges. Accordingly, various cities have implemented citation and release programs that incorporate the applicable Penal Code sections. The San Jose Police Department (SJPd) has some procedures which partially address the release of an individual arrested on an on-view misdemeanor charge. However, our review revealed that the SJPd's procedures do not yet include the applicable Penal Code sections needed to fully institute a comprehensive citation and release program. In our opinion, the SJPd should formally implement a citation and release program by

- Updating its procedures to incorporate the applicable Penal Code sections and
- Expanding the current processing center in the basement of the Police Administration Building (PAB) to accommodate the implementation of a citation and release program by moving the other SJPd functions currently located in the PAB basement to another location.

By implementing a citation and release program, the SJPd could save the city of San Jose (City) more than \$2 million annually in booking fees. Furthermore, expanding the processing center and relocating certain SJPd functions will provide enhanced services to the citizens of San Jose.

**The California Penal Code Allows Police Departments To Cite And Release Persons Under Certain Circumstances For Misdemeanor Charges**

The California Penal Code allows police departments to cite and release persons on on-view misdemeanor charges. Penal Code section 853.6(i) (shown in Appendix B) states the following:

*Whenever any person is arrested by a peace officer for a misdemeanor, that person shall be released according to the procedures set forth by this chapter unless one of the following is a reason for nonrelease . . . (See the criteria listed for nonrelease in Appendix B.)*

In addition, Penal Code section 827.1 (shown in Appendix C) addresses the citation and release of individuals for misdemeanor arrest and bench warrants. Penal Code section 827.1 states the following:

*A person who is specified or designated in a warrant of arrest for a misdemeanor offense may be released upon the issuance of a citation, in lieu of physical arrest, unless one of the following conditions exists . . . (See the criteria listed for nonrelease in Appendix C.)*

**Various Cities Have Implemented Citation And Release Programs**

Our survey of three cities in the county of Santa Clara (County) and Santa Clara County itself revealed that all of them have adopted the guidelines utilized by the Santa Clara County Department of Corrections (DOC) which incorporate Penal Code sections 853.6 and 827.1. Appendix D summarizes the results of our survey. In addition, Appendix E presents a copy of the DOC's citation and release policy on its form entitled "Employee's Report on Citation Policy."

**The SJPD Has Some Procedures Which Partially Address The Release Of An Individual Arrested On An On-View Misdemeanor Charge**

According to the SJPD, it generally cites and releases individuals arrested on on-view misdemeanor charges. An on-view is when the officer witnesses the event the suspect performed. However, the section of the SJPD General Order that addresses on-view charges is very general about citing and releasing individuals. As noted earlier, Penal Code section 853.6 has a list of specific criteria that, if one criterion is met, the person is precluded from being cited and released.

**The SJPD's Procedures Do Not Yet Include The Applicable Penal Code Sections Needed To Institute A Comprehensive Citation And Release Program**

Based on a review of the SJPD's procedures that apply to on-view misdemeanor charges and Penal Code section 853.6, we noted that the SJPD procedures contain only one of the nine criteria listed for nonrelease. In addition, the SJPD collects information, that is not listed in the Penal Code, in order to determine if it could cite and release a person. Appendix B shows the comparison made between the SJPD's duty manual section that applies to on-view charges and Penal Code section 853.6 and the differences between the two.

The SJPD's current policy regarding warrants is that SJPD books suspects arrested on misdemeanor and felony warrants (excluding certain traffic warrants). The only citation and release procedures regarding misdemeanor warrants apply to the suspects who walk in to sign up for a court appearance. The SJPD is not currently using the citation and release criteria listed in Penal Code section 827.1 that address misdemeanor arrest and bench warrants.

### **The SJPD Should Formally Implement A Citation And Release Program**

In our opinion, in order to implement a comprehensive citation and release program, the SJPD would need to

1. Update SJPD procedures to incorporate the applicable Penal Code sections and
2. Expand the current processing center to accommodate the implementation of a citation and release program by moving the other SJPD functions currently located in the PAB basement to another location.

### **The SJPD Needs To Update Its Procedures To Incorporate The Applicable Penal Code Sections**

Based on our review of the SJPD's current procedures and the survey conducted of the other cities, the SJPD needs to update its procedures to include all the criteria from Penal Code sections 853.6 and 827.1.

### **The SJPD Needs To Expand The Current Processing Center To Accommodate The Implementation Of A Citation And Release Program**

Currently, the SJPD is preparing an analysis on the future space needs of the SJPD. In its analysis, the SJPD included moving various units in order to make the entire basement of the PAB available to implement a citation and release program.

The SJPD has had a 1,600-square foot, seven-room processing center in the basement of the PAB since 1978. After the SJPD makes an arrest, the arrestee is brought to the processing center, fingerprinted, photographed, positively identified, and checked for prior offenses. This process takes from 20 minutes to an hour depending on the cooperation of the arrestee. After processing, the arrestee is

booked into the County jail. The SJPD processes all felony cases and misdemeanor and warrant arrests if the processing center is available. When the processing center is not available, the officer takes the arrestee directly to the County jail for booking.

Because the SJPD already does a significant amount of processing, it does not appear that a comprehensive citation and release program would cause a workload increase for the SJPD. The only added step in the SJPD's current processing of arrestees would be the completion of a citation and release form that shows (1) the assigned court, (2) court date and time, and (3) the offenses for which the individual was cited and released. Completing this form should take only about 5 minutes.

**The SJPD Needs To Move Functions Currently Located  
In The PAB Basement To Another Location**

In order to facilitate a comprehensive citation and release program, the SJPD needs to free up all the space in the basement of the PAB to accommodate processing. The SJPD units currently in the PAB basement and first floor and the square footage they currently occupy are as follows:

<b><u>SJPD Unit</u></b>	<b><u>Occupied Square Footage</u></b>
Personnel	2,000
Records	3,500
Permits	730
Training	<u>1,500</u>
Total Square Footage	<u>7,730</u>



Freeing up an additional 7,730 square feet in the PAB for processing would enhance the processing center by providing

- Secure and unsecure areas for juveniles;
- Secure and separate areas for both male and female arrestees;
- Interview rooms; and
- An identification area to perform fingerprinting, photo identifying, reviewing an individual's record, and completing a citation and release form.

Expanding the processing center would force the Personnel, Records, Permits, and Training Units noted above to relocate to a new location. A building that could accommodate these units easily is located at 120 W. Mission Street. The cost to lease this building is \$1.10 per square foot per month. Thus, the cost to house the relocated SJPd units would be about \$8,500 per month, or \$102,000 annually.

**By Implementing A Citation And Release Program,  
The SJPd Could Save The City More Than  
\$2 Million Annually In Booking Fees**

In order to estimate the potential savings in booking fees and officer time if the City adopted a citation and release policy similar to that of the DOC, we performed an analysis of the January 1993 bookings. A report run from the County Criminal Justice Information Control (CJIC) system indicated that the SJPd booked 2,625 persons into the County jail during January 1993. In comparing the report run from the CJIC system to the January 1993 Master Report, which lists total adult arrests, it appears that approximately 756 individuals, or 26 percent, of total adult arrestees were cited and released for the month of January.

However, it appears that more citation and releases could have occurred based on our analysis.

We categorized the 2,625 January 1993 bookings into three basic groups. The first group consisted of bookings where the DOC cited and released the individual. The second group involved felonies which are not eligible for citation and release. We analyzed the remaining group as follows: (1) If an on-view charge was involved, could the individual be cited and released under Penal Code section 853.6; (2) if warrants were involved, could the individual be cited and released under Penal Code section 827.1.

It should be noted that if an individual has an outstanding warrant that has "NO SCIT" or "NO BAIL" printed on the front or the bail amount listed on the warrant exceeds \$5,000, then the SJPD must book the individual into the County jail. Because the report we used did not indicate if a warrant was "NO SCIT" or "NO BAIL" or if the bail amount exceeded \$5,000, we could not factor those types of warrants into our analysis. While this lack of specificity will, by definition, affect our analysis somewhat, the SJPD does not feel these types of warrants are significant enough to matter.

**TABLE I**  
**ANALYSIS OF JANUARY 1993 BOOKINGS**

<b>Description</b>	<b>Number Of Bookings</b>	<b>Percentage Of Total Bookings</b>
Total bookings cited and released by the DOC	1,084	41.3
Total bookings where a felony offense was involved	765	29.1
Warrant offenses only and does not appear to meet criteria in applicable Penal Code section; appears that citation and release could have been utilized	413	15.7
On-view offense where it appears that applicable Penal Code section was met; booking appears appropriate	157	6.0
Warrant offense where it appears that applicable Penal Code section was met; booking appears appropriate	125	4.8
Case involved drunk in public charge which is usually cited and released by DOC; could qualify for citation and release	54	2.1
Warrant offense and on-view charge does not appear to meet criteria in applicable Penal Code sections; appears that citation and release could have been utilized	22	.8
On-view charges only and does not appear to meet criteria in applicable Penal Code section; appears that citation and release could have been utilized	5	.2
<b>TOTALS</b>	<b>2,625</b>	<b>100.0</b>

We further analyzed the bookings that were cited and released by the DOC to get a breakdown as to the types of offenses that were involved with these citation and releases.

**TABLE II**  
**BREAKDOWN OF TYPES OF OFFENSES**

<b>Description Of Offenses</b>	<b>Number Of Bookings</b>	<b>Percentage Of Total SCIT By DOC</b>
Drunk in public	412	38.0
Other misdemeanor offenses	213	19.6
Driving under the influence	208	19.2
Warrant offenses only <sup>5</sup>	120	11.1
Drunk in public and other charges	88	8.1
Combination of misdemeanor and warrant offenses <sup>6</sup>	43	4.0
<b>Totals</b>	<u><b>1,084</b></u>	<b>100.0</b>

Based upon the above analysis, it appears that the SJPD could have possibly cited and released another 1,008<sup>7</sup> individuals, totaling a potential savings of approximately \$172,000 for the month of January 1993 in booking fees and officer time. This one-month savings could result in an annual savings of as much as \$2,060,000.

We recognize that the analysis discussed above does not take into consideration the need for officer discretion out in the field. While we agree that officers have to react to various situations and make quick decisions, we believe that specific policies and procedures addressing the issue of citation and release for misdemeanor on-view charges and arrest/bench warrants will give officers better

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<sup>5</sup> Of the 120 cases involving warrants, 72 cases involved bench warrants. Therefore, only 48 cases will be utilized in our analysis for calculating any savings since the passage of AB 2286.

<sup>6</sup> Of the 43 cases involving a combination of misdemeanor and warrant offenses, 4 cases involved bench warrants. Therefore, only 39 cases will be utilized in our analysis for calculating any cost savings, as discussed in Footnote #4.

<sup>7</sup> 1,008 = 1,084 - (72 + 4)

guidance in making their decisions and, subsequently, will decrease the number of bookings for the City.

**Expanding The Processing Center And Relocating Certain SJPd Functions Will Provide Enhanced Services To The Citizens Of San Jose**

In addition to cost savings, expanding the processing center and relocating certain SJPd functions will provide enhanced services to the citizens of San Jose. The City and citizens would benefit from relocating the Personnel, Records, Permits, and Training Units to the 120 W. Mission building. Specifically, these units frequently provide services directly to citizens who need to get a permit or a copy of a report. Under the current arrangement, these citizens frequently are in the same area as arrestees being processed. Such an arrangement can make citizens feel uncomfortable. Accordingly, moving these units to the 120 W. Mission building would separate citizens from arrestees and promote a friendlier and safer environment. Finally, the 120 W. Mission building is a logical choice for the SJPd because of its proximity to the SJPd's headquarters and City Hall.

**CONCLUSION**

Our review revealed that the San Jose Police Department's (SJPd) procedures do not yet include the applicable Penal Code sections needed to fully institute a comprehensive citation and release program for certain types of misdemeanor charges. In our opinion, the SJPd should formally implement a citation and release program by

1. Updating its procedures to incorporate the applicable Penal Code sections and

2. Expanding the current processing center in the basement of the Police Administration Building (PAB) to accommodate the implementation of a citation and release program by moving the other SJPd functions currently located in the PAB basement to another location.

By implementing a citation and release program, the SJPd could save the city of San Jose more than \$2 million annually in booking fees. Furthermore, expanding the processing center and relocating certain SJPd functions will provide enhanced services to the citizens of San Jose.

### **RECOMMENDATIONS**

We recommend that the San Jose Police Department:

#### **Recommendation #1:**

Update its procedures to fully incorporate Penal Code sections 853.6 and 827.1 as they apply to on-view misdemeanor arrests and arrest/bench warrants respectively. (Priority 2)

#### **Recommendation #2:**

Perform an analysis to determine what resources will be needed to move the Personnel, Records, Permits, and Training Units to the 120 W. Mission Street building. (Priority 2)

#### **Recommendation #3:**

Determine the cost of expanding the current processing center to the entire basement of the Police Administration Building and any additional personnel costs

that would be incurred to staff the processing center to implement a comprehensive citation and release program. (Priority 2)

## **FINDING II**

### **THE CITY NEEDS TO REVIEW OR AUDIT SANTA CLARA COUNTY'S BOOKING FEE CHARGES**

California State law allows a county to collect fees from an arresting agency, such as the city of San Jose (City), for the administrative costs of booking and processing arrested persons. Our review revealed (1) that the City has never reviewed or audited how the county of Santa Clara (County) determines the booking fees it charges the City and (2) that such reviews or audits are needed because

- From July 1, 1990, to March 31, 1993, the County collected from the City approximately \$10,970,000 in booking fees and
- Effective January 1, 1994, California State law (1) redefines the administrative costs that a county can charge an arresting agency for booking and processing arrested persons, (2) specifies the circumstances under which the arresting agency will be exempt from the payment of booking and processing fees, and (3) allows the arresting agency to recover from a convicted person the actual administrative costs of his or her booking and processing.

In our opinion, the City should review the County's records and procedures to ascertain its compliance with the new state guidelines that will go into effect on January 1, 1994. In addition, the City should implement procedures to recover those booking fees the new state guidelines prescribe.

#### **California State Law Allows The County To Collect Booking Fees From Arresting Agencies**

Since July 1, 1990, California State law has allowed a county to collect fees from an arresting agency, such as the City, for the administrative costs of booking and processing arrested persons. Government Code section 29550 states:



*A county may impose a fee upon a city . . . for reimbursement of county expenses incurred with respect to the booking or other processing of persons arrested by an employee of that city . . . where the arrested persons are brought to the county jail for booking or detention. The fee imposed by a county pursuant to this section shall not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, incurred in booking or otherwise processing arrested persons.*

From July 1, 1990, to June 30, 1993, the County collected from the City approximately \$10,970,000 in booking fees. However, the City has not reviewed or audited how the County determined the booking fees it charged the City.

#### **The Booking Fees Charged To The City**

The County bills the City quarterly for the booking fees based on a predetermined booking fee per arrestee multiplied by the number of arrestees that the City brought to the County jail for booking or detention. Table III summarizes the amounts paid by the City, along with the unit booking fees.

**TABLE III**

#### **CITY OF SAN JOSE BOOKING FEES PAID TO THE COUNTY OF SANTA CLARA**

<b>Period</b>	<b>Unit Booking Fee</b>	<b>Total Amount Paid</b>
1990-91	\$107	\$ 3,143,339
1991-92	\$127	3,688,080
1992-93	\$141	4,140,888
Total		<u>\$10,972,307</u>

As shown in Table III, the unit booking fee has increased each year since it started. Between 1991-92 and 1992-93, the unit booking fee increased 11 percent from \$127 to \$141 per arrestee. According to the County, this increase is due to two circumstances:

1. The administrative costs of booking arrestees increased 5 percent from \$8,631,000 in 1991-92 to \$9,064,000 in 1992-93. (Appendix F summarizes administrative costs that the County included in the booking fee.)
2. Total bookings for all the cities in the County decreased 7.6 percent from 49,874 bookings in 1990-91 to 46,078 bookings in 1991-92. (The County used the 1991-92 booking statistics to calculate the 1992-93 unit booking fee. Appendix G shows the number of bookings for each city within the County.)

The combination of the increase in the administrative costs and the decrease of the number of bookings over which the costs can be distributed resulted in an increase in the unit booking fee. Thus, although the City's bookings decreased 1.6 percent from 29,486 in 1990-91 to 29,017 in 1991-92, the City's total booking fees increased 11 percent from \$3.7 million in 1991-92 to \$4.1 million in 1992-93.<sup>8</sup>

### **The New Booking Fee Guidelines**

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<sup>8</sup> The SJPD has expressed concern that if the City takes steps to lower its bookings, for example, through citation and release or other police booking alternatives, the County would simply increase the unit booking fee to make up any difference. In a memo to the City Manager dated June 10, 1993, the Chief of Police stated:

*It should be noted that the cost savings gained by cite-and-release or police booking alternatives may be negated over time by the County's accounting procedures. Local agencies are charged based on their pro rata share of the County's total booking costs. Past history has shown that a reduction in bookings has not resulted in a decrease in booking charges. In fact, the opposite has occurred and reductions have been followed by increased booking fees.*

However, the Chief's analysis would hold true only if the proportion of the City's bookings to total bookings increased or remained the same. To the extent that the City is able to decrease the proportion of its bookings to total (County-wide) bookings, the City's fees theoretically would be reduced.

Assembly Bill (AB) 2286, which Governor Wilson signed into law on October 6, 1993, redefined administrative costs and exempted a city and other arresting agencies from the payment of fees in certain circumstances. These new guidelines will go into effect January 1, 1994.

The new guidelines specify the types of activities that a county may consider as "*actual administrative costs*." According to the new law,

*"Actual administrative costs" may include any one or more of the following as related to receiving an arrestee into the county detention facility:*

- (1) The searching, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and mental screening of an arrestee.*
- (2) Document preparation, retrieval, updating, filing, and court scheduling related to receiving an arrestee into the detention facility.*
- (3) Warrant service, processing, and detainer.*
- (4) Inventory of an arrestee's money and creation of cash accounts.*
- (5) Inventory and storage of an arrestee's property.*
- (6) Inventory, laundry, and storage of an arrestee's clothing.*
- (7) The classification of an arrestee.*
- (8) The direct costs of automated services utilized in paragraphs (1) to (7), inclusive.*
- (9) Unit management and supervision of the detention function as related to paragraphs (1) to (8), inclusive.*

Furthermore, the new state guidelines exempt cities and other arresting agencies from payment of fees in certain circumstances. For example, a city is exempt from booking fees for the following types of arrests:

- An arrest made pursuant to a bench warrant for failure to appear in court and
- An arrest made pursuant to a warrant issued in connection with a crime not committed within a city's jurisdiction.

Appendix H shows the full text of new state guidelines listing the circumstances under which a city is exempt from payment of booking fees.

By specifying the types of eligible activities, the state guidelines, in effect, make the counties accountable for charging the correct fees to the arresting agencies. Because the new state law has clarified what the counties can include as actual administrative costs, the agencies which pay the booking costs will have a more definitive basis for determining whether the amounts the counties charge are allowable and properly computed.

Furthermore, the law provides for a \$25 administrative screening fee and a \$10 citation processing fee to be collected. Specifically, the law states:

*An administrative screening fee of twenty-five dollars (\$25) shall be collected from each person arrested and released on his or her own recognizance upon conviction of any criminal offense related to the arrest other than an infraction.*

*A citation processing fee in the amount of ten dollars (\$10) shall be collected from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense, other than an infraction, related to the criminal offense cited in the notice to appear.*

Accordingly, it appears that AB 2286 will allow the County to recoup some of the administrative and processing costs it used to pass on to arresting agencies as part of booking fees. To the extent the County can recoup those costs, the City should realize additional booking fee savings.

### **The City Should Review The County's Records And Procedures**

In our opinion, the City should review the County's records and procedures to ascertain its compliance with the new state guidelines. Upon allowing the counties to charge booking fees to arresting agencies, the new California State law specified that *"The fee imposed by a county . . . shall not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards . . . . Counties shall fully disclose the costs allocated as federal Circular A-87 overhead."* So that the City can be assured that the amounts the County has billed the City for booking costs are allowable and properly computed, the City should audit the County's records and procedures for computing the booking fees.

### **The City Should Implement Procedures To Recover Booking Fees The New State Guidelines Prescribe**

The new California State law also requires a court, as a condition of probation, to order a convicted person, to reimburse the city or arresting agency for the administrative costs. The law requires that the judgment of conviction contain an order for payment of the fees. According to the law,

*Any city . . . whose officer or agent arrests a person is entitled to recover any criminal justice administration fee imposed by a county from the arrested person if the person is convicted of any criminal offense related to the arrest. A judgment of conviction shall contain an order for payment of the amount of the criminal justice administration fee by the convicted person. . . . The court shall, as condition of probation, order the convicted person to reimburse the city . . . for the criminal justice administration fee.*

The City should implement procedures to recover the administrative costs of booking fees from the convicted persons as prescribed in the new state guidelines.

## **CONCLUSION**

Our review revealed that the city of San Jose (City) has never reviewed or audited how the county of Santa Clara (County) determines the booking fees it charges the City and that such reviews or audits are needed for two reasons. First, from July 1, 1990, to March 31, 1993, the County collected from the City approximately \$10,970,000 in booking fees. Second, effective January 1, 1994, California State law (1) redefines the administrative costs that a county can charge an arresting agency for booking and processing arrested persons, (2) specifies the circumstances under which the arresting agency will be exempt from the payment of booking and processing fees, and (3) allows the arresting agency to recover from a convicted person the actual administrative costs of his or her booking and processing. In our opinion, the City should review the County's records and procedures to ascertain its compliance with the new state guidelines that will go into effect on January 1, 1994. In addition, the City should implement procedures to recover the booking fees the new state guidelines prescribe.

## **RECOMMENDATIONS**

We recommend that the Finance Committee and City Council:

### **Recommendation #4:**

Direct the Office of the City Auditor to include in its 1994-95 workplan a review of the county of Santa Clara's records and procedures to ascertain its compliance with the new state booking fees guidelines that will go into effect on January 1, 1994. (Priority 2)

Finally, we recommend that the Office of the City Attorney, Manager's Budget Office, and the San Jose Police Department:

### **Recommendation #5:**

Implement procedures to recover the administrative costs of booking arrestees from the convicted persons as prescribed in the new state guidelines. (Priority 2)